

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 268

June 15, 1995, 5:06 p.m.
Page S-8480 Temp. Record

TELECOMMUNICATIONS/Final Passage

SUBJECT: Telecommunications Competition and Deregulation Act of 1995 . . . S. 652. Final passage, as amended.

ACTION: BILL PASSED, 81-18

SYNOPSIS: As amended and passed, S. 652, the Telecommunications Competition and Deregulation Act of 1995, will amend telecommunications laws and reduce regulations in order to promote competition in the telecommunications industry by eliminating barriers that prevent telephone companies, cable companies, and broadcasters from entering one another's markets. It will also permit electric utilities to enter the cable and telephone markets. Judicial control of telecommunications policy, including the "Modified Final Judgment" regime, will be terminated. Details are provided below.

Local telephone competition:

- All State and local barriers to competing with the telephone companies will be preempted upon enactment of S. 652;
- a local exchange carrier (LEC; a phone company) with market power will be required to negotiate, in good faith, interconnection agreements with any telecommunications carriers that wish to use its facilities and equipment; such agreements will meet certain minimum requirements, including that they will provide for the following: unbundled access to network functions and services; unbundled access to facilities and information necessary for transmission, routing, and interoperability of both carriers' networks; interconnection at any technologically feasible point; interconnection that is at least equal in type, quality, and price as the LEC provides itself or others; access to poles, ducts, conduits, and rights-of-way; telephone number portability; and local dialing parity;
- a State may arbitrate and decide an agreement after 135 days of negotiations, and every interconnection agreement will be subject to State approval;
- a local exchange carrier will make any service, facility, or function it provides under an interconnection agreement to another carrier to any other carrier that requests it under the same terms and conditions as provided in the agreement (see vote No. 261 for related debate);
- if a State fails to carry out its responsibilities regarding interconnection agreements, the Federal Communications Commission

(See other side)

YEAS (81)				NAYS (18)		NOT VOTING (1)	
Republican (51 or 96%)		Democrats (30 or 65%)		Republicans (2 or 4%)	Democrats (16 or 35%)	Republicans (1)	Democrats (0)
Abraham	Helms	Akaka	Inouye	McCain	Bingaman	Hatch- ^{2AY}	
Ashcroft	Hutchison	Baucus	Johnston	Packwood	Boxer		
Bennett	Inhofe	Biden	Kennedy		Bumpers		
Bond	Jeffords	Bradley	Kerry		Byrd		
Brown	Kassebaum	Breaux	Kohl		Conrad		
Burns	Kempthorne	Bryan	Lautenberg		Dorgan		
Campbell	Kyl	Daschle	Levin		Feingold		
Chafee	Lott	Dodd	Mikulski		Graham		
Coats	Lugar	Exon	Moseley-Braun		Kerrey		
Cochran	Mack	Feinstein	Murray		Leahy		
Cohen	McConnell	Ford	Nunn		Lieberman		
Coverdell	Murkowski	Glenn	Pell		Moynihan		
Craig	Nickles	Harkin	Robb		Pryor		
D'Amato	Pressler	Heflin	Rockefeller		Reid		
DeWine	Roth	Hollings	Sarbanes		Simon		
Dole	Santorum				Wellstone		
Domenici	Shelby						
Faircloth	Simpson						
Frist	Smith						
Gorton	Snowe						
Gramm	Specter						
Grams	Stevens						
Grassley	Thomas						
Gregg	Thompson						
Hatfield	Thurmond						
	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

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(FCC) will assume jurisdiction;

- the FCC or a State will be able to waive the minimum interconnection requirements for rural and other small phone companies; and

- Bell Operating Companies (BOCs; see Long distance BOC relief below) will be required to use separate subsidiaries to provide certain information services, equipment manufacturing, in-region long distance services authorized by the FCC, and alarm monitoring.

Universal service:

- "universal service" will be defined as those telecommunication services which the FCC "determines should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high-cost areas and those with disabilities, to enable them to participate effectively in the economic, academic, medical, and democratic processes of the Nation, and which the FCC determines have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers" (see vote No. 248);

- a State may add services to the universal service definition to meet its needs;
- all telecommunications providers will be required to contribute to pay for providing universal service;
- both the FCC and the States may require contributions for universal service;
- the FCC for interstate services and the States for intrastate services may designate particular telecommunications providers as "essential telecommunications carriers," which will receive payments to provide universal service;
- needy schools, libraries, and rural health care providers will be eligible for universal service (see vote No. 264);
- Congress will have to be notified before required contributions to the universal service fund are increased;
- telecommunications companies will not be permitted to refuse to provide services to high-cost areas, rural areas, or areas with low-income residents unless they can demonstrate that providing such services will not be profitable or will prove more costly than the services they provide in other areas;
- volume discounts will not be prohibited (see vote No. 267); and
- a Federal-State Joint Board will be created to decide which services will be offered under universal service and to recommend rules for implementing universal service.

Long distance BOC relief:

In a consent decree referred to as the Modification of Final Judgment (MFJ), AT&T agreed to stop providing local phone services. Its local phone companies were divided into seven Regional Bell Operating Companies (RBOCs), which are holding companies that contain both Bell Operating Companies (BOCs) and other services. The number of BOCs (approximately 20) is not governed by the consent decree. The decree also created Local Access and Transport Areas (LATAs). There are currently 198 LATAs. A BOC may provide phone service within a LATA, but it may not provide phone service across LATA boundaries. The courts administer the MFJ. This Act will allow a BOC to provide interLATA phone service originating in a LATA in which it provides local service under three conditions (see vote Nos. 243 and 250 for related debate):

- it must meet a list of requirements to make its local services available at wholesale costs to its competitors;
- the FCC must certify that such service is in the public interest; and
- the service must be offered through a subsidiary.

A BOC will be permitted to offer interLATA services originating outside of LATAs in which it provides local phone service immediately upon enactment. Any part of the MFJ not modified or superseded by this Act will be administered by the FCC (see vote No. 248). Finally, a BOC will be permitted to provide incidental interLATA services, including cable, commercial mobile phone (see vote No. 247), and interactive educational services, upon enactment.

Manufacturing authority for BOCs:

- Upon receiving permission to provide interLATA services, a BOC may begin manufacturing telephones and telephone equipment under 3 conditions (the MFJ currently prohibits such manufacture):
 - it must use a separate affiliate for manufacturing;
 - it must meet requirements for establishing standards and certifying equipment; and
 - it must make its manufactured goods available to others without discrimination or self-preference.

Cable competition, video dialtone, and direct-to-home satellite services:

- telephone companies will be permitted to offer cable services upon enactment, though the FCC will retain for 1 year its authority to approve BOC plans to construct facilities for video dialtone cable;
- State and local barriers to cable companies offering other telecommunication services will be removed upon enactment;
- telephone companies will be permitted to offer cable either through a video dialtone system (open to all programmers) or through a cable system (not open to all programmers); if the former option is chosen, they will not be required to obtain a local franchise;
- telephone companies offering any cable programming, whether through video dialtone or a cable system, will have to comply with must-carry requirements;

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- A BOC will not be required to use a separate subsidiary for providing video programming over a common carrier platform if it provides nondiscriminatory access to that platform and does not cross-subsidize its video operations;

- rate regulation will be maintained for basic cable programming for cable operators that do not face effective competition, which will be defined as cable competition from a local phone company or from another programmer that has at least 15 percent market penetration;

- expanded tier programming will be subject to regulation only if the rates substantially exceed the national average rates for comparable cable programming services (see vote No. 248; see vote No. 266 for related debate); and

- a State may impose sales taxes on direct-to-home satellite services to in-State subscribers.

Objectionable telecommunications:

- cable programmers will be permitted to refuse to transmit on public or leased access channels programs which contain obscenity, indecency, or nudity;

- sexually explicit cable programming will be fully scrambled (see vote No. 249);

- violence ratings for television broadcasting will be developed, and a system to allow the blocking of violent broadcast signals will be developed (see vote Nos. 256 and 257); and

- certain obscene, indecent, and harassing computer communications will be criminalized (see vote No. 263).

Broadcasting and spectrum allocations:

- limits on radio station ownership will be eliminated;

- limits on the number of television stations that any one entity may own will be eliminated, and the national television market that any one entity will be allowed to reach will be raised to 35 percent from the current 25 percent;

- television broadcast licenses will last for 10 years instead of 5 years; and

- broadcast license procedures will be streamlined.

Miscellaneous:

- all Federal, State, and local entry barriers into telecommunications by utilities will be removed upon enactment, though the affiliate of a utility registered under the Public Utility Holding Company Act that provides such services will have to keep separate books and records;

- BOCS that are not currently providing alarm services will be barred from providing such services for at least 4 years, after which they will be permitted to provide such services through subsidiaries if they have FCC approval to provide in-region interLATA services;

- the FCC will be permitted to forbear from regulation when in the public interest or when competition develops;

- restrictions on foreign ownership of U.S. phone companies will be lifted under a reciprocity formula;

- the FCC's authority to use auctions for additional spectrum allocations will be expanded; the Congressional Budget Office estimates this new authority will result in an additional \$7.1 billion in revenue collections over the next 5 years;

- national security interests will be protected when considering grants of common carrier licenses to foreign entities;

- the FCC will be permitted to strike State and local requirements that prohibit any entity from entering a telecommunications market, though it will not be permitted to preempt local right-of-way requirements (see vote No. 258 for related debate);

- a State may not require a BOC to implement toll dialing parity in an intraLATA area before it has been granted authority to provide interLATA services in that area or before 3 years after the date of enactment of this Act;

- any preexisting agreements to allow charges for "1-800" phone calls must be in writing, and rates must be disclosed; and

- phone companies will provide law enforcement agencies with the name, address, and physical location of a telemarketing business upon formal, written request.

Those favoring final passage contended:

S. 652 will usher America into the future. Telecommunications and computing advances will define that future. Breakthrough technological advances that transformed society in the past, such as the invention of the printing press, the telephone, or the radio, will pale in comparison to the technological revolution which is about to begin. All that is necessary to succeed is for the Government to get out of the way. The telecommunications industry is shackled by Depression-era laws that have long out-lived their usefulness. Those laws were enacted to provide phone service as a regulated monopoly, because it was not considered feasible to have competing phone companies serving the same areas, and to provide tight Government control over spectrum-based services. The result of these laws today, when technological advances have made local phone competition possible, and new technologies such as cable and Direct Broadcast Satellite have greatly expanded Americans' access to a diversity of media sources, has been that competition, and thus progress, has been stymied. In contrast, the computer industry, which is unregulated, has improved at an unbelievable speed. Since 1984, the value of computer systems has increase 200 times. In other words, a computer that would have cost \$100,000 in 1984 today costs only \$500. Phone costs have declined by about half, but much more could have been achieved through deregulation.

The benefits that will come from this bill will be much greater than lower phone prices. The prices of consumer electronics will also fall, new products will come onto the market, and new services will be provided. According to the President's Council of

Economic Advisors, deregulating the telecommunications industry will result in 1.4 million new service sector jobs alone by the year 2003, and several other studies have estimated that deregulation will add approximately \$2 trillion in Gross Domestic Product (GDP) to the economy by the year 2005.

S. 652 will tear down the barriers to competition in the telecommunications industry. It will allow a full integration between communications and computing technology. The most remote hamlets in America will be just a few keystrokes away from interactive communications with the largest urban centers. Everyone will have instant access to information and experts in every field. Distance learning, telemedicine, and telecommuting will be commonplace; entertainment options will be cheap and unlimited; capital investment, exports, and new jobs will grow exponentially. S. 652 will truly unleash the information age. We are delighted to have the opportunity to vote to pass it.

Those opposing final passage contended:

Argument 1:

We favor deregulation. However, this bill does not go far enough. In particular, we are irritated that the universal service framework has been retained, and we object to the tight regulations which will be left on the Bell companies. Those industries in America which have done well, have progressed rapidly, and have healthy levels of competition are deregulated industries. The telecommunications industry needs to be deregulated; it does not need only a reduction in the regulatory burden. We oppose this bill, because it is too timid.

Argument 2:

Removing regulations on the telecommunications industry will result in the creation of huge new monopolistic firms with little interest in serving the needs of rural and poor Americans, and, as they become more international in nature, little interest in even putting the needs of America first. We have seen the problems of deregulation in the airline industry; we are not about to duplicate them in the telecommunications industry. During the Depression, Americans understood the "public good". They understood that the free market had failed, and that the Federal Government would watch out for them by saying that there are some services all Americans should have access to at affordable prices. We have not forgotten this lesson. We do not believe the free market will stop monopolistic practices, or that it will treat rural and poor Americans fairly. Therefore, we oppose this bill.